

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Quy Huy Mai,

Plaintiff,

v.

COMPLAINT

Court File No. 19-CV-_____

United States of America,

Defendants.

I. PRELIMINARY STATEMENT

1. Plaintiff, Quy Huy Mai, is the owner of \$36,320.00 in United States currency seized by agents of the Drug Enforcement Administration (DEA) and thereafter improperly administratively forfeited by the DEA without due process of law. The DEA denied Plaintiff the due process he is entitled to under the Fifth Amendment to the United States Constitution when it refused to accept plaintiff's valid claim contesting the forfeiture under the Civil Asset Forfeiture Reform Act (CAFRA), 18 U.S.C. §983, which was timely mailed but, due to excusable neglect resulting from a typographical error in the mailing address, was not timely received by the DEA. Though the error was immediately corrected when discovered and the circumstances amounting to

excusable neglect demonstrated, the DEA still refused to accept the valid claim and provide plaintiff the process he is entitled to under CAFRA. Plaintiff therefore now seeks equitable relief from this Court requiring the DEA to provide plaintiff the due process he is entitled to under CAFRA beginning with the filing of a complaint by the United States of America for judicial forfeiture of the \$36,320.00 in United States currency within 90 days or returning such seized property to the plaintiff.

II. PARTIES

2. Plaintiff is an individual residing in the District of Minnesota and is the owner of the \$36,320.00 in United States currency at issue.
3. The United States of America is a sovereign nation responsible for enforcement of law through the Department of Justice and the Drug Enforcement Administration.

III. JURISDICTION

4. This action is brought pursuant to the Fifth Amendment to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. §1331 and 5 U.S.C. §702.

IV. FACTS

5. On July 10, 2019, at approximately 6:05 a.m. plaintiff was at the Minneapolis-St. Paul International Airport.

6. On said date at said time and place, plaintiff had cleared security and was on his way through the concourse to his gate to take his flight to Los Angeles, California.
7. Plaintiff was then in possession of \$36,320.00 in United States currency.
8. Plaintiff had lawfully earned these funds through savings that plaintiff had accumulated over time from his lawful employment. The funds were intended to be used to purchase an Airstream trailer from a seller in California.
9. Plaintiff was on his way to his gate for his flight when he was stopped by agents, who upon information and belief, were with the DEA.
10. After a short interaction with the plaintiff, said officers seized from him the aforementioned \$36,320.00 in United States currency.
11. On or about August 29, 2019, plaintiff received a Notice of Seizure of Property and Initiation of Administrative Forfeiture Proceedings dated August 27, 2019. The asset ID number is 19-DEA-653850. A true and correct copy of this document is attached hereto as Exhibit A and incorporated herein by reference.
12. As required by CAFRA, on September 17, 2019, plaintiff, by and through his counsel, timely mailed a valid notice of claim to the seized property, to wit, \$36,320.00 in United States currency. The claim was

in writing, described the seized property, stated the plaintiff's ownership interest in the seized property, and was made under oath subject to the penalty of perjury. A true and correct copy of the Claim is attached hereto as Exhibit B and incorporated herein by reference.

13. On September 17, 2019, the valid claim was delivered by plaintiff's counsel's office to the U.S. Postal Service for delivery by certified mail to the Drug Enforcement Administration, Forfeiture Counsel, Asset Forfeiture Section as required. However, due to a typographical error in the mailing address, the notice was mailed to the DEA Forfeiture Counsel, Asset Forfeiture Section, 870 Morrissette Drive, Springfield, VA 22152 instead of the correct address of DEA Forfeiture Counsel, Asset Forfeiture Section, 8701 Morrissette Drive, Springfield, VA 22152.
14. On or about October 7, 2019, the U.S. Postal Service returned the mailing including the valid claim of the plaintiff to plaintiff's counsel as not deliverable as addressed. Verification of the mailing of September 17, 2019, of the typographical error and of the date that the mailing was returned as not deliverable is attached hereto as Exhibit C and incorporated herein by reference.
15. Plaintiff's counsel received the returned claim along with the original envelope and its contents on October 11, 2019.

16. On the same day, October 11, 2019, plaintiff's original valid claim contesting the forfeiture was re-sent by Federal Express, overnight delivery to the corrected mailing address of DEA Forfeiture Counsel, Asset Forfeiture Section, 8701 Morrissette Drive, Springfield, VA 22152.
 17. On October 15, 2019, the valid claim was received by the DEA Forfeiture Counsel, Asset Forfeiture Section.
 18. On said date, the DEA Forfeiture Counsel, Asset Forfeiture Section also received an explanation as to why, under the totality of the circumstances and the doctrine of excusable neglect, the DEA should accept the claim as timely filed given the initial date of mailing as well as the typographical error that lead to the claim not being delivered within the noticed deadline and that, therefore, the DEA should proceed with the forfeiture under 18 U.S.C. §983(a)(3).
 19. By letter dated October 29, 2019, and received on November 4, 2019, the DEA refused to accept plaintiff's valid claim as timely filed thereby wrongfully depriving plaintiff of the due process he is entitled to under the Fifth Amendment and CAFRA.
- V. CAUSE OF ACTION, DENIAL OF DUE PROCESS**
20. Plaintiff realleges the above allegations as if here and after set forth in full and further states and alleges as follows.

21. That the United States of America denied plaintiff his right to due process of law as guaranteed by the Fifth Amendment to United States Constitution when the DEA failed to accept the plaintiff's valid claim as being timely filed, given the existing circumstances showing excusable neglect for the delayed filing and did not provide him with the procedural safeguards he is entitled to prior to the administrative forfeiture of the \$36,320.00 in United States currency seized from him under CAFRA including but not limited to the safeguards in 18 U.S.C. §983(a)(3)(A) and (B).

VI. PRAYER FOR RELIEF

WHEREFORE Plaintiff respectfully prays for relief against the above-named defendant as follows:

1. For an order compelling the agency action unlawfully withheld, namely, compelling the Drug Enforcement Administration to accept the plaintiff's claim contesting the forfeiture of the \$36,320.00 in United States currency as timely filed and, not later than 90 days after such date, filing a complaint for forfeiture as provided in 18 U.S.C. §983(a)(3)(A) or releasing the seized property to the plaintiff.
2. Holding unlawful and setting aside any administrative forfeiture of the \$36,320.00 in United States currency seized by the DEA from the plaintiff on the grounds that any such administrative forfeiture was

arbitrary, capricious, and an abuse of discretion, or otherwise not in accordance of law as well as contrary to the plaintiff's right to due process of law under the Fifth Amendment to the United States Constitution.

3. Awarding plaintiff his costs and disbursements incurred herein.
4. For such other and further relief as to the Court is just and equitable.

DATED: November 12, 2019

Respectfully submitted,

GOETZ & ECKLAND P.A.

By:


FREDERICK J. GOETZ
Attorney Registration No. 185425
Banks Building
615 1st Avenue N.E., Suite 425
Minneapolis, MN 55413
(612) 874-1552

ATTORNEY FOR PLAINTIFF

ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded to the Defendant.

Respectfully submitted,

GOETZ & ECKLAND P.A.

By: 
FREDERICK J. GOETZ
Attorney Registration No. 185425
Banks Building
615 1st Avenue N.E., Suite 425
Minneapolis, MN 55413
(612) 874-1552

ATTORNEY FOR PLAINTIFF